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SUPREME COURT OF THE UNITED STATES.

No. 348.

THEODORE J. CAMPAU ET AL., PLAINTIFFS IN ERROR,

vs.

GEORGE W. LEWIS ET AL.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MICHIGAN.

GOVERNMENT PRINTING OFFICE.

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INDEX.

	Original.	Print.
Writ of error	1	1
Bill of complaint	3	1
Answer of G. W. Lewis	15	6
Answer of L. V. Johnson	29	11
Deposition of D. J. Campau	32	12
Deposition of A. T. Campau	33	12
Deposition of T. J. Campau	34	13
Deposition of D. J. Campau	35	13
Deposition of H. Post	35	13
Deposition of G. W. Lewis	37	14
Deposition of L. Campau	38	14
Exhibit No. 2	39	14
Exhibit No. 3	41	15
Decree circuit court, Wayne county	44	16
Final decree	47	18
Clerk's certificate	49	18
Assignment of errors	50	19
Citations, &c	56	21
Bond	61	23

J. Campau, James J. Campau, Theodore J. Campau, and Alexander T. Campau, all of the city of Detroit, that they are children of the late Joseph Campau, who died in the city of Detroit, in July, A. D. 1863, unmarried, leaving as his children and heirs-at-law
4 your orators; and also Catherine D. Palms and Daniel J. Campau, of the city of Detroit; Adelaide Johnson, of Maple Rapids, in Clinton county, in the State of Michigan; Matilda Chapaton, of the city of Chicago, in Illinois; and Emily A. Campau, married to George W. Lewis, of the city of Detroit.

They further show, that the said Joseph Campau, in July, 1863, died intestate and possessed of a very large estate, consisting, principally, of land and tenements in Wayne county, Michigan, and valued at from half a million to more than one million of dollars.

Said Emily A. Campau (married to said George W. Lewis) has, since her childhood, been of feeble mind and mentally incompetent to have the charge and management of property. She was physically malformed, being dwarfish in stature, and having, in early life, received from a fall a severe wound on her head, which had caused the removal of a portion of her skull and permanently affected her brain. Her general bodily health was feeble and imperfect. She was always capricious in temper, suspicious, quarrelsome, wayward, unreasonable, easily influenced and swayed, ready to take
5 offence; entirely ignorant of business, and utterly incapable of taking care of herself and managing her property.

On various occasions, without any cause, she would lock herself in her room at her father's house; and on other occasions would leave his house and take up her residence with strangers. Since her father's death she has estimated her interest in his estate as being worth about ten thousand dollars, and has spoken of selling it for that sum, and with the proceeds buying a house on Jefferson avenue, in Detroit, and living on the interest of the residue of the $10,000, and has offered to sell her interest for such sum.

In addition to her mental infirmities, she has, for years past, been addicted to the excessive use of intoxicating and narcotic substances.

Her father, said Joseph Campau, was more than ninety-four years old when he died. His health had been broken for years. His mind had been enfeebled by his great age and increasing infirmities. It was understood in his family that he had made no desire or bequest of his property. The defendant, George W. Lewis, was aware of this, and believed the fact to be so, and he was apprised of other facts hereinbefore set forth.

6 Said Emily was more than forty years old, sickly in appearance, feeble in frame, and bodily and mentally unfit for matrimony. Said George W. Lewis was about twenty-two years old, active, vigorous, robust, and in full health.

Under these circumstances he resolved to marry the said Emily, and secure an interest in her property. His connexion with the family of your orator, the said Theodore, gave him facilities for carrying out his project. He persuaded her to leave her friends and relatives in Detroit, clandestinely, and elope with him in April, 1863.

She did so, and they were married in Rochester, in New York, at that time, without the knowledge or assent of her family.

After such marriage, and after a temporary sojourn in the State of New York, said George W. Lewis and said Emily returned to Detroit, and lived together as husband and wife, until the first week in September, A. D. 1863. During this time, the said George W. Lewis repeatedly assaulted and beat said Emily and cruelly treated her, and was guilty of extreme cruelty to her, so as to render it unsafe and improper for her to live with him.

They also show, that according to her own declarations and
7 complaints, he was unchaste in his habits and unfaithful to her, and that while sojourning after the marriage and before he returned to Detroit, at Saratoga Springs, in New York, he had intercourse, carnally and sexually with other women, and contracted venereal disease, and communicated the same to her.

While he and she were living at Detroit after their return, subsequent to their marriage, and in the summer of 1863, he repeatedly applied to her to execute in his favor a conveyance of the whole or a part of her estate, and to give him the control of it; at the same time he furnished her with intoxicating drinks and kept her secluded from her friends, and refused to allow them to visit her, although she was confined to her bed by illness. He assaulted and beat her repeatedly, because she was unwilling and refused to convey her property and give her money to him. Feeble as she was in mind and body, she yet had such glimmerings of reason as to be unwilling to do this. Finally his abuse of her became so gross as to lead to his leaving the hotel where they were sojourning, and to her refusing to see
8 him or hold any communication with him. Thereupon she applied to her brothers and sisters in Detroit for sympathy and aid. The nurse in attendance upon her corroborated her statements of his ill usage. She expressed her wish to be divorced from him. From her statements, and those furnished by the nurse, a bill of complaint was prepared against him and filed in this court, being file number 2,436, and entitled in her name as complainant against him as defendant. To the contents of this bill your orators refer as a part of this their bill of complaint. They show that the statements in it were framed from her own declarations and those of her nurse or attendant; and they further aver that such statements are true. Said bill was read over to her and left with her for examination for more than thirty-six hours afterwards before she swore to its contents. The said bill was read over to her carefully and its contents explained. She declared that she understood them and the nature of the oath to the bill which she took. It was filed, and process taken out upon it and served. Your orators refer to the records in the case in connexion with this bill of complaint.

Afterwards, and on or about the 23d day of September, 1863, said George W. Lewis, having secured the aid and co-operation of
9 the said nurse or attendant of his wife (who had been active in invoking protection against his unmanly violence towards herself and the said Emily,) induced the said Emily to leave the hotel

and go with him to a small tenement house on her father's estate clandestinely and hurriedly.

In this house he kept her secretly from her family and friends. Your orator, the said Theodore, having discovered her situation, called at the house to see her. While there he was assaulted by the said George with a drawn knife and violently driven from the house, under such circumstances as led to said George being afterwards found guilty of and punished for a criminal attack and outrage. Having thus secured the control of the said Emily, and having by violence driven from her her relations, said George proceeded, with the aid of his confederates, to prosecute his schemes for getting the control of her fortune.

In pursuance of it he procured a deed to be prepared conveying all her estate and interest, as one of the heirs-at-law of her father, to one Lewis Campau. Said deed is of record in the registry of Wayne county, and your orators refer to it as a part of this their bill of complaint.

10 They aver that the said Lewis Campau was and is of very limited pecuniary responsibility, and that he paid no consideration for said deed. He consented to take the conveyance on the request of said George W. Lewis, and to aid the latter in carrying out his schemes.

Having had the title thus transferred to said Lewis Campau, said George then procured the said Lewis Campau to execute to him and said Emily jointly a conveyance of the said estate and interest. This was done under date of 25th of September, 1863. To the record of said deed, in the registry of this county, your orators refer in connexion with this bill. Said conveyance was without any consideration in fact. Your orators charge that said Emily, at the time of the execution of this deed, was mentally incompetent to have charge of her property; that she was not competent mentally to make a valid conveyance; that said conveyance was without consideration; that she was induced to make it by false and fraudulent representations of its object and legal effect; that its execution was procured by undue influence and persuasion, and by taking advantage of her feeble state of mind and body; that it was induced in part by coercion and

11 threats; and that it was for these and other reasons, fraudulent and void.

Your orators show and charge that by the laws of the State of Michigan these conveyances, if valid, would have made said George and said Emily joint tenants, with the right of survivorship; that this was foreseen by the said George, and that he relied upon the approximate certainty of his surviving his feeble and fragile and comparatively aged wife.

And so it has resulted after a few months of lingering illness, and during the last of it without medical attendance, until within a few hours of her death. The said Emily, without the presence of any of her relations, on the 13th of February, 1864, and in Detroit, died.

Your orators show that said Emily left no children and no will; that said deeds, as they charge, are utterly void; and that the title

to said estate rests and vests in them as the heirs-at-law of said Emily, in common with their sisters and their brother Daniel.

They are apprehensive that said George W. Lewis will at once proceed to alien and incumber said interest and estate, and
12 that he will transfer the same to innocent parties.

They claim that the said deeds from said Emily to said Lewis Campau, and from the latter to her and said George, are fraudulent and void, and invalid, as before charged, and that they should be so declared by this court. They are without adequate relief at law. and they, therefore, come into this court for relief.

They further show that in September, 1863, your orators, Dennis and Alexander, filed a petition in the probate court for Wayne county for the appointment of a guardian of the person and estate of said Emily, on the ground that she was mentally incompetent to take charge of her property.

As collateral to this proceeding, they filed they filed their bill of complaint in this court against the said George W. Lewis, Emily A. Lewis, and Lewis Campau, for the purpose of setting aside said conveyances hereinbefore described, and enjoining the said George and said Emily from transferring or incumbering her property. Your orators refer to the files and proceedings in this court.

They further show that said suit is now abated by the death of said Emily.

They further show that on the 14th day of February, A. D.
13 1864, their sister Adelaide Johnson died, leaving two children, both minors, and both more than fourteen years old, one of them, named Elizabeth, married to ——— Brown, and living in Clinton county, Michigan ; and the other, named Louisa V. Johnson, who resides at Maple Rapids, in said Clinton county. Said Adelaide Johnson left a last will and testament by which she devised and bequeathed all her property to said two daughters.

The defendant, Daniel J. Campau, is the executor of said will, and the said Elizabeth Brown and Louisa V. Johnson are above entitled to and interested in the subject-matter of this suit as the devisees and representatives of said Adelaide.

They bring this their bill of complaint against the said George W. Lewis, and also against their co-heirs, the said Catharine D. Palms, Daniel J. Campau, the said Elizabeth Brown and Louisa V. Johnson, children and devisees of the said Adelaide Johnson and Matilda Chapaton.

To the end, therefore, that that the several defendants may answer this bill of complaint, but without oath, (an answer under oath being hereby expressly waived,) and that the said deed from
14 said Emily A. Lewis to said Lewis Campau may be declared fraudulent, illegal, and void, and that the said George W. Lewis may be decreed to have acquired no estate or rights by or through it, or the subsequent conveyance to him and said Emily by said Lewis Campau ; and that the said rights and estate of said Emily, as one of the heirs of Joseph Campau, may be decreed and adjudged to have vested in your orators and their co-heirs, free from

any claim of said George W. Lewis or his assigns, and that an injunction may issue to restrain him from aliening or encumbering said estate, and that your orators may have such further or such other relief as to this court shall seem equitable and proper.

May it please this honorable court to grant to your orators the writ of subpœna in due form, under the seal of this court, to be directed to the said George W. Lewis, Catherine D. Palms, Daniel J. Campau, Elizabeth Brown, and Louisa V. Johnson and Matilda Chapaton, therein and thereby commanding them, and each of them, at a certain day and under a certain penalty to be therein inserted, personally to be and appear in this honorable court, then and there to answer this bill of complaint and to stand to perform
15 and abide the decree of this court in the premises. And your orators will ever pray, &c.

THEODORE ROMEYN,
Solicitor and of Counsel for Complainants.

Filed February 15th, 1864.

Answer of defendant, George W. Lewis.

In the circuit court for the county of Wayne, in chancery.

STATE OF MICHIGAN :

DENNIS J. CAMPAU, JAMES J. CAMPAU, Theodore J. Campau, and Alexander T. Campau, complainants,
vs.
GEORGE W. LEWIS, DANIEL J. CAMPAU, Catharine D. Palms, Elizabeth Brown, Louisa V. Johnson, and Matilda Chapaton, defendants.

16 The individual answer of George W. Lewis, one of the defendants in the above cause, to the bill of complaint of Dennis J. Campau, James J. Campau, Theodore J. Campan, and Alexander T. Campau, complainants.

This defendant, now and at all times hereafter saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies in the complainants' bill of complaint contained, for answer thereunto, or unto so much or such parts thereof as he is advised it is material for him to make answer unto, answering, says, that he admits the death of Joseph Campau, and that his children and heirs are as set forth in the bill of complaint; that said Campau died intestate possessed of a property valued at from one half a million to a million of dollars, and that said property consists chiefly of lands and tenements in Wayne county, in this State. Defendant also admits that said Campau was more than ninety-four years of age when he died; that his health had been broken for years prior to his death, and that his mind had become enfeebled; that it

was understood in his family that he had made no devise or
17 bequest of his property, and that this defendant was aware of this and believed the fact to be so.

Further answering, this defendant admits that in April, 1863, he and said Emily A. Campau were married at Rochester, in the State of New York; that said Emily was more than forty years of age, and this defendant was about twenty-two and in full health; that his said wife was dwarfish in stature, and that she was somewhat easily influenced by others in some things, and was capricious of temper and quick to take offence, and that this defendant and the said Emily left Detroit, went to Rochester, and were there married without the assent or knowledge, so far as this defendant is aware, of the family of said Emily; considering the fact that they were both of age, the necessity of consulting the brothers and sisters of said Emily before doing so did occur to this defendant, as he presumes it did not to his said wife.

Further answering, defendant admits that after his said marriage and a temporary residence in the State of New York, he and his said wife returned to Detroit, where they lived together as husband and wife until the first week of September, A. D. 1863; that about this time this defendant left the hotel where he and his said wife
18 were then living, and that his leaving said hotel was followed by the filing of a bill against him in the name of Emily A. Lewis for a divorce from this defendant.

Defendant further admits the subsequent reconciliation between himself and his said wife on the 23d day of September, A. D. 1863; he also admits that the said Theodore called at the small tenement referred to in said bill of complaint, as stated, and that this defendant opposed him in his attempt to obtrude himself upon the attention of said Emily, and finally drove him from the house; he further admits his subsequent prosecution and fine therefor, as stated in said bill, and that he drew a knife, as therein stated, but says that he drew said knife only in self-defence, and not until after said Theodore had threatened to shoot this defendant, and then with no intention of using it except in self-defence.

And this defendant further says that the conduct of said Theodore towards him and his said wife had been such that the presence of said Theodore was offensive to said Emily, and on the occasion of said disturbance she repeatedly told the said Theodore and those who accompanied him there to go away and let her alone, as she did
19 not want to see them or to have anything to do with them; that they had been the cause of all the trouble between herself and her husband, and she wished them to leave her entirely alone. Under these circumstances this defendant admits that he drove said Theodore from the house, and he believed then and still does believe that he was justifiable in so doing.

Further answering, defendant admits the making of a deed of conveyance by said Emily of all her interest in her father's estate to Lewis Campau, and the subsequent conveyance by said Lewis Campau to said Emily and this defendant jointly, as stated in the bill of

complaint; he also admits that said Lewis Campau is a man of limited pecuniary responsibility.

Further answering, defendant admits that by the laws of this State he and the said Emily, under and by virtue of the aforesaid conveyance, were joint tenants, with the right of survivorship; he also admits that on the 13th day of February, A. D. 1864, his said wife departed this life, leaving no children and no will, and that she died without the presence of any of her relatives; and he says that it was her express wish that none of them should be present. During the last illness of the said Emily, which lasted about two months,
20 this defendant and her nurse repeatedly asked her if she did not wish to see some of her relatives, and this defendant expressed his entire willingness to have them come to his house if she desired it, but she positively refused, saying that her brothers and sisters had all neglected and ill treated her since the death of her mother, and that she had no love for them, and no wish, even under any circumstances, to see any of them again or to have any of them see her.

Further answering, this defendant denies that his late wife, Emily A. Lewis, was, or from her childhood had been, of feeble mind, and mentally incompetent to have the charge and management of property, or that her general bodily health was feeble and imperfect, and he also denies that she was entirely ignorant of business and incapable of taking care of herself or managing her property.

And this defendant avers and says that said Emily was of fair average mental capacity, and that her knowledge of business and capacity to manage property were fully equal to the average of her sex among the class of citizens to whom she belonged; that she was especially close and careful with regard to pecuniary matters, and to an
21 uncommon degree suspicious of attempts to deprive her of her property; that while she was wayward in temper, and to some extent easily swayed in other matters, she was like the rest of her father's family, remarkably self-willed and tenacious in everything pertaining to her pecuniary rights and interest.

And this defendant, upon information and belief, denies that said Emily in early life received an injury on her head resulting in a removal of a portion of her skull, as stated in said bill of complaint, and denies that she ever locked herself in her room at her father's house, or left home and took up her residence among strangers without just cause therefor; and defendant says, upon like information and belief, and while said Emily lived at her father's house, her father and her brother Dennis J. Campau did frequently assault and beat her with violence, so that at times it was unsafe for her to remain in the same house with them, and that both she and her mother were frequently compelled to lock themselves up, and at times even to leave home to protect themselves from the threats and the violence and abuse of Emily's father and brother Dennis.

Further answering, defendant denies that since her father's death the said Emily has estimated her interest in his estate at
22 about $10,000, or that she has spoken of selling it for that

sum and buying a house on Jefferson avenue and living on the interest of the residue thereof. and this defendant avers that at the time of her father's death, and since that time until her own death, she always fully appreciated and understood the large value of her father's estate, and of her own interest therein.

Defendant denies that said Emily was ever during her life addicted to the excessive use of intoxicating or narcotic substances, or that he furnished her with intoxicating liquors, except as the same were prescribed for her as medicine by her physician; and defendant says that for some time prior to the death of said Emily such liquors were used by her to some extent for bathing purposes, but never taken as a beverage, and but rarely as medicine, and then in moderate quantities and only under advice of her physician, and that the charge and insinuation in said bill that said Emily made improper use of intoxicating and narcotic substances of any kind or in any way have no foundation in fact, and are utterly false.

Defendant also denies that at the time of said marriage with the said Emily she was feeble in person, and bodily and mentally
23 unfit for matrimony, and avers that she was then in fair health, and bodily and mentally as fit for matrimony as any of the heirs or children of said Joseph Campau. Defendant further denies and repels all charges and insinuations in said bill to the effect that he resolved to marry or did marry said Emily in order to possess himself of an interest in her father's estate, or that he persuaded her to leave her friends and relatives in Detroit clandestinely and to elope with him, as stated in said bill of complaint. Defendant denies that he was unchaste in his habits or unfaithful to his said wife, and denies that he had sexual intercourse with other women, as stated in said bill, or that he contracted a venereal disease, or communicated the same to his said wife.

Defendant, further answering, denies that in the summer of 1863 he repeatedly applied to his said wife to execute a conveyance to him of the whole or any part of her property, and avers that he neither then nor at any other time made such application. And he also denies that during that time, or at any other time before or afterwards, he ever assaulted or beat his said wife, or cruelly treated, or
24 was guilty of extreme cruelty, or of any cruelty whatever towards her, as charged in said bill. And defendant avers that all the charges and insinuations in said bill to the effect that he abused or ill-treated said Emily in any manner, or that he furnished her with intoxicating drinks with a view of thereby getting control of her and procuring a conveyance of her property or any part of it to him are grossly and corruptly false, and have no shadow of foundation in truth. And this defendant also denies that said bill of divorce hereinbefore mentioned was prepared and filed at the request of said Emily, or that she ever expressed a wish to be divorced from this defendant, and defendant expressly states, upon information derived from said Emily herself, and which he believes to be true, that said bill for divorce was prepared and filed at the suggestion and under the direction of complainant, Theodore J. Campau, and that the signature of said Emily thereto

was only obtained after considerable delay, and was then procured by falsehood practiced on her with reference to this defendant. And this defendant denies that on or about the 23d day of Septem-
25 ber, 1863, he induced said Emily to leave the hotel in which she was then living, either with or without the aid and co-operation of her said nurse, or that he used any influence to induce her to leave it and go with him to the small tenement referred to in said bill, or that he kept her there secreted from her family and friends. And defendant says that he did not know of her intention to leave said hotel, or that she had left it, until after she had taken up her residence in said small tenement, and that he first learned the fact from a messenger sent to him from said Emily to inform him where she was, and to request him to call there and see her at once. And defendant did call, and after a full explanation from said Emily in regard to the facts connected with the filing of said bill for divorce, which explanation was substantially as hereinbefore stated, he consented to again live with her, and from that date to the time of her death they lived together as husband and wife in entire harmony.

This defendant also denies that the said conveyances hereinbefore mentioned were made in pursuance of any preconcerted plan
26 or effort on his part, or were the result of any suggestion or arrangement made by him. And he denies that said Lewis Campau consented to take said conveyance from said Emily at the request of this defendant. And defendant says that the consent of said Campau thereto was given solely and only at the request of said Emily and not till after a full explanation to her by said Lewis Campau of the effect of such conveyance.

Further answering, defendant says that the idea of making a conveyance of her interest in her father's estate in such a manner as to make this defendant joint owner with her originated with said Emily, and that the said conveyances were made entirely voluntarily, at her own suggestion, and by her own request, uninfluenced in any way by word, act, or deed on the part of this defendant. And this defendant denies that at the time of the execution of said conveyances, said Emily was mentally incompetent to have charge and management of property or to make a valid conveyance thereof; and says that she was at that time in fair physical health, and in the entire pos-
27 session of all her mental faculties and had a perfect, clear, and full understanding and appreciation of the nature, object, and effect of said conveyances. He also denies that she was induced to make said conveyance to Lewis Campau by any false or fraudulent representation of its object and legal effect, or that its execution was procured by any undue influence or persuasion, or by coercion or threats of any kind, or by taking any advantage of the said Emily in any shape or manner. The only consideration for said conveyance from said Emily was the sum of one dollar, which was paid to said Emily by said Campau.

Further answering, defendant admits the filing of a petition in the probate court by the complainants Dennis and Alexander for the appointment of a guardian of the person and estate of said Emily, on the

ground that she was mentally incompetent to take charge of her property; and defendant shows that that said application was subsequently heard by said probate court, and after the examination on the part of the petitioners of a large number of witnesses, and without the introduction of any evidence on the part of said Emily, the prayer of said peti-
28 tion was denied. Defendant also admits the filing of a bill in this court by complainants Dennis and Alexander against this defendant, his said wife, and said Lewis Campau for the expressed purpose stated in the bill of complaint in this cause; defendant further says that there was a joint and several answer thereto under oath of the defendants in said bill filed in said cause, to which reference is hereby made as a part of this answer. And this defendant also admits that the said Adelaide Johnson died on the 14th day of February, A. D. 1864, leaving children and heirs as stated in said bill, and that she also left a last will and testament devising and bequeathing all her property as therein stated. And this defendant denies all unlawful combination and confederacy in said bill charged; without this, that any other matter or thing material or necessary for him to make answer unto and not herein and hereby well and sufficiently answered unto, confessed and avoided, traversed or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed with his
29 reasonable costs and charges in that behalf most wrongfully sustained.

(Signed) GEORGE W. LEWIS.

MAYNARD & MEDDEAUGH, *Solicitors for Defendant Lewis.*

Filed March 24th, 1864.

Answer of Lewis V. Johnson.

In the circuit court for the county of Wayne, in chancery.

DENNIS J. CAMPAU, JAMES J. CAMPAU, Theodore J. Campau, and Alexander T. Campau, complainants,

vs.

GEORGE W. LEWIS, DANIEL J. CAMPAU, Catharine D. Palms, Matilda Chapaton, Elizabeth Brown, and Louisa V. Johnson, defendants.

30 The said defendant, Louisa V. Johnson, by Daniel J. Campau, her guardian *ad litem*, duly appointed as such pursuant to the statute in such case made and provided, for answer to the bill of complaint in said cause, says:

She admits the death of said Joseph Campau, and that he left a large amount of property and heirs-at-law as stated in said bill; this defendant has also understood that her late aunt, Emily Campau, was married to the said George W. Lewis, but with reference to the other

matters set forth in said bill this defendant leaves the parties to their proofs in the premises, most respectfully praying that the court may protect all the rights and interests of this defendant in the case, and that such a decree may be entered therein as under all the circumstances shall be just and proper; and this defendant as in duty bound will ever pray.

LOUISA V. JOHNSON,
By DANIEL J. CAMPAU,
Her Guardian at litem.

LEVI BISHOP, *Solicitor.*

Filed May 20th, 1864.

31 To each of the above answers a replication in the usual form was filed.

The bill was taken as confessed by all the other defendants.

32 An order having been entered requiring the parties to proceed and take their proofs in said cause according to the rules and practice of the court, thereupon the following evidence was introduced by the parties respectively, and taken before F. E. Driggs, esqr., a special examiner, that is to say:

Daniel J. Campau sworn for the complainants:

Question. Are you a son of the late Joseph Campau?

Answer. I am the oldest living son and the oldest of the family living.

Question. How many heirs are there to your father's estate, and what is the estimated value of your father's property?

Answer. Counting Emily, there would be nine children living at the time of Mr. Campau's death. I have never yet placed an estimate on the value of the estate; I have thought it might be worth half a million, perhaps more; I know that it has been estimated at more than a million; by those, however, whom I thought incompetent to judge.

(Signed) D. J. CAMPAU.

33 A. T. Campau, being sworn for the complainant, says:

I am a son of the late Joseph Campau, and reside in Detroit.

Question. State whether some five or six years ago you had the general management of your father's estate.

Answer. I had from 1859 to 1862.

Question. State what you think the entire real property of your father's estate was worth, say from 1860 to the present time.

Answer. I should consider that at least it was worth one million of dollars.

Question. State what you think one ninth part of it was worth during that time.

Answer. Worth over one hundred thousand dollars.

Question. How much over, at least?

Answer. Well, say ten, or fifteen, or twenty thousand dollars more.

(Signed) A. T. CAMPAU.

34 Theodore J. Campau, sworn for the complainant, says:

I am a son of the late Joseph Campau, and have been connected with my father's estate for over twenty years, and was his agent for over sixteen years, and am now one of the administrators of his estate.

Question. How long have you had the principal management of your father's estate?

Answer. For nearly twenty years, excepting that time when brother Alexander was agent.

Question. Are you familiar with the property and its value?

Answer. I am.

Question. What has the whole net property of that estate been worth, say for the last four years?

Answer. It is worth from one million dollars to two million dollars; and worth at least one million, if it had been brought into the market and sold under the hammer.

Question. State what one ninth part of the real property was worth in September, 1863—the least amount it was worth.

35 Answer. It was worth from one hundred thousand dollars to two hundred thousand dollars, and at least worth one hundred and fifteen thousand dollars, or one hundred and twenty thousand dollars.

(Signed) T. J. CAMPAU.

Denis J. Campau, sworn for the complainants, says:

In reference to a conversation had with Lewis Campau, the person named in the two deeds after the deeds were executed, my brother asked him if he paid any consideration; he said there was a consideration of one dollar put in, but that he had not paid that.

Hoyt Post sworn for defendants:

Question. Did you know Mrs. Emily Lewis, formerly Miss Emily Campau, in her life time?

Answer. Well, I saw her several times.

Question. When and where did you see her?

36 Answer. The first time I saw her to know her was on the twenty-fourth day of September, 1863, in the small red tenement-house on Larned street occupied by Mrs. Murphy.

Question. Where did you next see Mrs. Lewis, and under whose instructions did you act in seeing her?

Answer. I saw her next day, the twenty-fifth day of September, towards noon.

Question. Please state particularly what took place on this occasion, and what was said as to the execution of the deeds.

Answer. There was a small stand in the room, and she walked across the room and I produced the papers; I said to her, Mrs. Lewis, You understand what this paper is you are signing, and she replied in substance, Yes; it is a deed of my interest in my father's estate to Lewis Campau, of all my property. Then I said, And he deeds back to you and Mr. Lewis jointly; she said, Yes, that is the way I understand it; she then signed the deed. After the deed was completed, it was

delivered to Mr. Lewis Campau. He then executed the other
37 deed to Mr. and Mrs. Lewis jointly, with the same witnesses, and I took the acknowledgment. I procured the revenue stamps for the deeds at Mr. Butler's; I attached the stamps to the deed at the request of Lewis, in the office of Mr. Maynerd, in the presence of himself and Lewis Campau. The deed from Mrs. Lewis to Lewis Campau was given to Mr. Lewis to take to her to cancel the stamps.

Question. Please state whether the papers here shown you, copies of which are hereto annexed and marked Defendants' Exhibits No. 2 and 3, are the original deeds to which you referred.

Answer. They are; I copied them, and believe they are exact copies.

George W. Lewis, the defendant, sworn in his own behalf:

Speaking with reference to the execution of the deeds on the day they were executed.

Question. What further was done in relation to the deeds that day, as to stamping them or otherwise?

38 Answer. I drew a note for two hundred dollars on Ives and Maynerd, indorsed it, and I got the money. Mr. Post went and got the stamps, and the stamps on the deed from Lewis Campau to us were put on to the deed and cancelled in the office of Maynard & Meddaugh. I then took that deed and the other stamps and went over to Mrs. Murphy's; found Mr. Rogers there talking with my wife; I put on the stamps, and she cancelled them there in presence of Mr. Rogers; then I took both deeds to Mr. Maynerd, and after he looked them over, I took them to the register of deeds to be recorded.

(Signed) GEO. W. LEWIS.

Lewis Campau, sworn for the defendants, speaking of the two deeds in question.

Question. How much were the stamps on each deed?

Answer. One hundred dollars.

(Signed) LEWES his + mark. CAMPAU.

39 *Defendants' Exhibit No. 2.*

This indenture, made the twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-three, between Emily A. Lewis, of the city of Detroit, in Wayne county, Michigan, of the first part, and Lewis Campau, of the same place, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of one dollar to her in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, doth, by these presents, grant, bargain, sell, remise, release, and forever quit-claim unto the said party of the second part, and to his heirs and assigns forever, all her right, title, and interest in and to all the real estate, of every name and nature whereof the late Joseph Campau, father of said party of first part, died seized or possessed, or to which he was in any way entitled or in which he had any interest, whether in possession, remainder, or re-

version, in law or in equity and wherever situated, whether in the State of Michigan or elsewhere; together with all and singular the hereditaments and appurtenances thereunto belonging or in
40 anywise appertaining; to have and to hold the said quit-claimed premises to the said party of the second part, and to his heirs and assigns, to the sole and only proper use, benefit, and behoof of the said party of the socond part, his heirs and assigns, forever.

In witness whereof, the said party of the first part has hereunto set her hand and seal the day and year first above written.

(Signed) EMILY A. LEWIS. [L. S.]

Signed, sealed and delivered in presence of—

(Signed) E. H. ROGERS.
(Signed) HOYT POST.

STATE OF MICHIGAN, *County of Wayne, ss:*

On this twenty-fifth day of September, one thousand eight hundred and sixty-three, before me, a notary public in and for said county, personally came the abovenamed Emily A. Lewis, known to me to be the person who executed the foregoing instrument, and acknowledged the same to be her free act and deed.

(Signed) HOYT POST,
Notary Public, Wayne County, Michigan.

[U. S. rev. stamp, 100 dollars, duly cancelled]

41 REGISTER'S OFFICE, *Wayne County, ss:*

Received for record the 25th day of September, A. D. 1863, at 3 o'clock and 30 minutes p. m., and recorded in liber 101 of deeds, in page 116.

(Signed) E. N. LECROIX, *Register*,
By E. P. RANKIN, *Dep.*

Defendants' Exhibit No. 3.

This indenture, made the twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-three, between Lewis Campau, of the city of Detroit, in Wayne county, Michigan, of the first part, and George W. Lewis and Emily A. Lewis, both of the same place, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of one dollar to him in hand paid, by the said parties of the second part, the receipt whereof is hereby confessed and acknowledged, doth by these presents grant, bargain, sell, remise, release, and forever quit-claim unto the said parties of the second part, and to their heirs and
42 assigns forever, all the right, title, and interest, which the said party of the first part acquired by virtue of a certain indenture of deed, made the 25th day of September, A. D. 1863, between Emily A. Lewis, of the first part, and said Lewis Campau, of the second part, in and to all the real estate of every name and nature whereof

the late Joseph Campau, father of said Emily A. Lewis, died seized or possessed, or to which he was in any way entitled, or in which he had any interest, whether in possession, remainder, or reversion, in law or in equity, and wherever situated, whether in the State of Michigan or elswhere; together with all and singular the hereditaments appurtenances thereunto belonging or in any way appertaining; to have and to hold the said quit-claimed premises to the said parties of the second part, and to their heirs and assigns, to the sole and only proper use, benefit, and behoof of the said parties of the second part, their heirs and assigns, forever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

(Signed) LEWIS his × mark CAMPAU. [L. S.]

Signed, sealed, and delivered in presence of—
(Signed) E. H. ROGERS.
(Signed) HOYT POST.

43 STATE OF MICHIGAN, *County of Wayne, ss:*

On this twenty-fifth day of September, one thousand eight hundred and sixty-three, before me, a notary public in and for said county, personally came the abovenamed Lewis Campau, known to me to be the person who executed the foregoing instrument, and acknowledged the same to be his free act and deed.

(Signed) HOYT POST,
Notary Public, Wayne County, Michigan.

[U. S. rev. stamp, 100 dollars, duly cancelled.]

REGISTER'S OFFICE, *Wayne county, ss:*

Received for record the 25th day of September, A. D, 1863, at 3.35 o'clock p. m., and recorded in liber 101 of deeds, on page 117.

(Signed) E N. LACROIX, *Register*,
By E. P. RANKIN, *Dep.*

44 An order having been entered in the cause closing the proofs therein, the cause came on for hearing in the circuit court for the county of Wayne, in chancery, on the eighteenth day of July, A. D. 1865, and was then argued and submitted; and on the twenty-ninth day of July, 1865, the bill was by that court dismissed with costs to the defendant, G. W. Lewis.

On the first day of August, A. D. 1865, the complainants took an appeal in the cause from said circuit court, in chancery, to the supreme court of Michigan, and a return on appeal was duly made to the last-named court.

On the nineteenth day of October, A. D. 1865, said cause having been argued before said supreme court, was fully submitted for their decision.

At a session of said supreme court held at the city of Detroit, on the thirteenth day of November, A. D. 1865, a final judgment or decree was entered by said court in said cause in the following words:

45 Supreme court of Michigan.

DENNIS J. CAMPAU *et al.*, complainants,
vs.
GEORGE W. LEWIS *et al.*, defendants.

Decision of the court pronounced by Justice Christiancy, and concurred in by Chief Justice Martin and Justice Cooley as to the sufficiency of the stamps on the two deeds in controversy.

It is also urged that the deed is void for want of stamps to a sufficient amount.

It is stamped to the amount of one hundred dollars, and this is sufficient, unless the value of the property conveyed was at the time more than one hundred thousand dollars.

The bill contains no intimation of any such ground of objection.

The sufficiency of the stamps depends upon the value of the property, and this is to be ascertained only by an estimate, to be formed from the opinions of witnesses.

Fairness would seem to require that such a ground should have been taken in the bill, that the defendants might have had notice of it, taken issue upon the question of value, and produced his evidence upon it. But we give no opinion upon the point as matters of
46 pleadings; nor shall we discuss the question whether a deed can be held void for a mere deficiency in the amount of stamps, when the question of value depends merely upon the estimate of witnesses, and it is apparent the parties have acted in good faith and in the honest belief that the value did not exceed that indicated by the stamps.

In this case we are not satisfied, from the testimony incidentally appearing in the case, that the value of the property conveyed did at the time exceed one hundred thousand dollars.

Having given to this case the full and careful consideration its importance demands, we concur in the result with the circuit judge who tried the cause in the court below, and his decree dismissing the bill must be affirmed.

The defendant Lewis is entitled to his costs in both courts.

(Signed) J. P. CHRISTIANCY.
(Signed) GEO. MARTIN.

I concur with what my brother Christiancy says on the subject of stamps.

(Signed) T. M. COOLEY.

Justice Campbell gave a dissenting opinion on other points, but remained silent on the question of stamps.

47 DENIS J. CAMPAU, JAMES J. CAMPAU, Theodore J. Campau, and Alexander T. Campau

vs.

GEO. W. LEWIS, DANIEL J. CAMPAU, CATHARINE D. PALMS, Elizabeth Brown, Louisa V. Johnson, and Matilda Chapaton.

This cause having been brought to this court by appeal from the circuit court for the county of Wayne, in chancery, and having been argued and submitted and duly considered by the court, it is ordered, adjudged, and decreed by the court now here that the decree of the circuit court for the county of Wayne in chancery be, and the same is hereby, in all things affirmed, with the costs of suit in both courts to the defendant Lewis.

48 On the twenty-third day of November, 1865, a suggestion of the death of James J. Campau, one of the complainants, was made and filed of record in said cause in the following words:

Suggestion of the death of J. J. Campau.

Supreme court of the State of Michigan.

THEODORE J. CAMPAU *et al.*, complainant and appellant,

vs.

GEORGE W. LEWIS *et al.*, defendants and appellees.

And now comes the said Theodore J. Campau, Denis J. Campau, and Alexander T. Campau, appellents, and suggests to the court of record that James J. Campau, one of the complainants in said cause, departed this life on the twenty-ninth day of October, 1865.

LEVI BISHOP,
Sol'r for Complainants.

49 On the twenty-third day of November, 1865, the annexed writ of error, with a copy thereof for the defendant in error, and a bond to the defendant in error, were received and filed in the office of the clerk of the supreme court of Michigan.

CLERK'S OFFICE OF THE SUPREME COURT
OF THE STATE OF MICHIGAN.

The return to the foregoing and annexed writ of error appears in the foregoing schedules and transcripts thereto annexed, being of all matters relating to the points to be raised in the Supreme Court of the United States.

As witness my hand and the seal of said supreme court of Michigan this twentieth day of December, A. D. 1865.

[SEAL.] JAMES D. WEIR,
Clerk of the Supreme Court at Detroit, State of Michigan.

[5 cent rev. stamp, cancelled.]

50 Supreme Court of the United States.

Assignment of errors.

ALEXANDER T. CAMPAU, DENIS J. CAMPAU, and Theodore J. Chapau, pl'ffs in error,
vs.
GEORGE W. LEWIS, DANIEL J. CAMPAU, CATHERINE D. Palms, Matilda Chapaton, Elizabeth Brown, and Louisa V. Johnson, defendants in error.

And afterwards, to wit, on the twentieth day of December, A. D. 1865, before the judges of said Supreme Court of the United States, came the said plaintiffs in error, in person, and say that in the record and proceedings aforesaid, and in giving the judgment and rendering and making the decree aforesaid, in and by said supreme court of Michigan, there is manifest error in this, that is to say—

1st. The said supreme court of Michigan erred in deciding that the amount of the nominal consideration of one dollar, expressed in the deeds set out in the record, as defendants' exhibits, was
51 to determine the amount of stamps which said deeds required under the laws of the United States.

2d. Said supreme court of Michigan erred in deciding, contrary to what was claimed by the plaintiffs in error, that the real value of the property conveyed by the said two deeds was not proved by the evidence in the case to have been more than one hundred thousand dollars at the time said deeds were executed; and, therefore, that the amount of stamps put on said deeds was sufficient, under the laws of the United States, that is to say, an act entitled "An act to provide internal revenue to support the government, and to pay interest on the public debt,' approved July 1st, 1862.'

3d. Said supreme court of Michigan erred in deciding that the amount of stamps, that is to say, one hundred dollars for each of said deeds was sufficient, under the evidence in the case as to the value of the property conveyed by them, to render said deeds valid and effectual under the laws of the United States, contrary to and against the claims in that regard set up, and urged upon the record in the argument of the case by the plaintiff in error.

4th. Said supreme court of Michigan erred in deciding that
52 the amount of stamps used on said deeds was sufficient, under the laws of the United States, according to the value of the property conveyed, contrary to what was urged and claimed before said said supreme court by the plaintiffs in error.

5th. Said supreme court of Michigan erred in deciding that said two deeds were not null and void under the laws of the United States for want of a sufficient amount of stamps, as was claimed and urged by the plaintiffs in error before said supreme court of Michigan.

6th. Said supreme court of Michigan erred in deciding that the claim set up and urged by the plaintiffs in error that their title by descent in and to the share in the property of their said father, the

late Joseph Campau, which was attempted to be conveyed by said deeds to said Louis Campau, and from him to said George W. Lewis, was not a good and valid claim or title; and that the title of the plaintiffs in error to said share, which would otherwise have passed to them by descent, was passed and transferred by said Emily A. Lewis to said Louis Campau, and from him to said George W. Lewis, by the deeds in question, and that said deeds were duly and suffi-
53 ciently stamped according to the laws of the United States.

7th. Said supreme court of Michigan erred in deciding that the claim of the plaintiffs in error made in said cause, to the effect that the title to the property in question passed by descent to them by reason of an insufficient amount of stamps having been put on the deeds in question to make them valid under the laws of the United States, according to the value of the property attempted to be conveyed by them, was not a good claim, but on the contrary, that the amount of stamps on said deeds was sufficient, and said deeds were effectual to pass the title to the property in question against said rights and claims of the plaintiffs in error.

8th. Said supreme court of Michigan erred in deciding that the claims set up by the plaintiffs in error that their right and title to the property in question had not been passed from them or their sister, said Emily A. Lewis, by a deed, (the deed in question first named in the records,) with a sufficient amount of stamps on it to make it valid and effectual under the laws of the United States,
54 that is to say, an act entitled "An act to provide internal revenue to support the government and to pay interest on the public debt, approved July 1st, 1862," was not a good and valid claim.

9th. Said supreme court of Michigan erred in deciding that the title to the property in question had been passed from said Emily A. Lewis by a deed, the deed in question first named on the record, duly stamped to make it effectual and valid under the laws of the United States, contrary to what was claimed and set up by the plaintiffs in error.

10th. Also there is error in this, that said supreme court of Michigan in and by their said judgment and decree in all things affirmed the decree of the circuit court for the county of Wayne, in chancery, and rendered a judgment and decree in favor of the defendant, George W. Lewis; whereas, by the laws of the land, said supreme court of Michigan ought to have set aside and reversed said decree of said circuit court, in chancery, and ought to have granted the prayer of said bill of complaint, that said two deeds should be set aside and held for naught.

And the said Alexander T. Campau, Denis J. Campau,
55 Theodore J. Campau, plaintiffs in error, pray that the judgment and decree aforesaid of said supreme court of Michigan, for the errors aforesaid, and for other errors in the said record and proceedings being, may be reversed, overruled, and altogether held for naught, and that they may be restored to all the rights which they have lost by such judgment and decree, and that said two deeds

may be declared null and void, and of no effect, and that a decree and judgment may be entered in said cause, according to the prayer of the original bill in said cause; and as in duty bound said plaintiff will ever pray.

ALEXANDER T. CAMPAU,
THEODORE J. CAMPAU,
DENIS J. CAMPAU,
In person.

56 *Citation.*

UNITED STATES OF AMERICA, *ss:*

To George W. Lewis, Daniel J. Campau, Catharine D. Palms, Matilda Chapaton, Elizabeth Brown, and Louisa V. Johnson, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be holden at Washington on the twenty-first day of December next, pursuant to a writ of error filed in the office of the clerk of the supreme court of the State of Michigan, wherein Alexander T. Campau, Denis J. Campau, and Theodore J. Campau are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment or decree in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable George Martin, chief justice of the supreme court of the State of Michigan, this twenty-third day of November, in the year of our Lord one thousand eight hundred and sixty-five.

GEO. MARTIN,
Chief Justice of the Supreme Court of the State of Michigan.

I hereby acknowledge due service on me personally of the original citation of which the foregoing is a copy, this 27 day of November, 1865.

C. D. C. PALMS.

57 STATE OF MICHIGAN, *County of Wayne:*

Levi Bishop, of said county, being duly sworn, says that he is attorney for the abovenamed plaintiffs in error, and the above signature of C. D. C. Palms, is, as this deponent verily believes, the signature of the defendant Catharine D. Palms; that this deponent sent the within copy of citation to said Mrs. Palms, requesting her to sign it, and send it back, and she did so; and further saith not.

LEVI BISHOP.

Subscribed and sworn to before me this Dec. 2, 1865.

F. E. DRIGGS,
Notary Public, Wayne Co., Mich.

58 *Citation.*

UNITED STATES OF AMERICA, *ss:*

To George W. Lewis, Daniel J. Campau, Catherine D. Palms, Matilda Chapaton, Elizabeth Brown, and Louisa V. Johnson, greeting:

You are hereby cited and admonished to be and appear at the Su-

preme Court of the United States to be holden at Washington on the twenty-first day of December next, pursuant to a writ of error filed in the office of the clerk of the supreme court of the State of Michigan, wherein Alexander T. Campau, Denis J. Campau, and Theodore J. Campau, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment or decree in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable George Martin, chief justice of the supreme court of the State of Michigan, this 23 day of November, in the year of our Lord one thousand eight hundred and sixty-five.

GEO. MARTIN,
Chief Justice of the Supreme Court of the State of Michigan.

59 STATE OF MICHIGAN, *County of Wayne:*

Charles J. Trombly, of said county and State, being duly sworn, says that on the 24th day of November, in the year 1865, at Detroit, in said county, he served the within citation on George W. Lewis, Daniel J. Campau, and Matilda Chapaton named therein, by delivering to each of said persons a true copy thereof, and at the same time exhibiting to each of them the written original; and further saith not.

C. J. TROMBLY.

Subscribed and sworn to before me this November 25, 1865.
H. M. CHEEVER, *Notary Public, Mich. Co., Ind.*

[5 ct. revenue stamp, cancelled.]

STATE OF MICHIGAN, *Clinton county:*

Gardner Conn, of said county, being duly sworn, says that on the 30th day of Novemher, 1865, in said county, he served the within citation personally on Elizabeth Brown and Louisa V. John-
60 son, two of the persons named in said above and within citation, by delivering a true copy thereof to each of said persons, and at the same time exhibiting to each of them the above original citation; and further saith not.

GARDNER CONN, *Under Sheriff.*

Subscribed and sworn to before me this November 30th, A. D. 1865.
J. O. SELDEN,
Notary Public for Clinton County, Mich.

Fees $6 00.

[5 c't revenue stamp, cancelled.]

61 Supreme court of the State of Michigan.

Copy bond.

ALEXANDER T. CAMPAU, DENIS J. CAMPAU, Theodore J. Campau, impleaded with James J. Campau, now deceased, complainants and appellants,

vs.

GEORGE W. LEWIS, DANIEL J. CAMPAU, Catherine D. Palms, Matilda Chapaton, Elizabeth Brown, and Louisa V. Johnson, defendants and appellees.

Know all men by these presents, that we, Alexander T. Campau, as principal, and Denis J. Campau, as surety, are held and firmly bound unto the abovenamed defendants in the penal sum of five thousand dollars, to be paid to said defendants, their executors and administrators, to which payment well and truly to be made we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these pre-
62 sents, sealed with our seals, and dated this 23d day of November, A. D. 1865.

Whereas, the above bounden Alexander T. Campau hath prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment or decree rendered in the above-entitled suit by the supreme court of the State of Michigan:

Now, therefore, the condition of this obligation is such, that if the abovenamed Alexander T. Campau shall prosecute his said writ of error to effect, and answer all damages and costs, if he shall fail to obtain a reversal of said judgment or decree, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

ALEX. T. CAMPAU. [L. S.]
DENIS J. CAMPAU. [L. S.]

Signed, sealed, and delivered in presence of—
LEVI BISHOP.

I hereby approve the penalty of the above bond and the sureties thereto.

Dated Detroit, this 23 day of November, A. D. 1865.

GEO. MARTIN, *Chief Jus. Sup. Court, Mich.*

Filed December 26, 1865.